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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/469,575 12/22/99 ALI

S 430.134

EXAMINER

HM22/1208

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PUBLICATION	
ART UNIT	PAPER NUMBER

1615

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12/08/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/469,575

Applicant(s)

ALI ET AL.

Examiner

Amy E Pulliam

Art Unit

1615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 07 May 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

## DETAILED ACTION

Receipt is acknowledged of the Information Disclosure Statement, Declaration and Surcharge, all received May 7, 2000.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 6 is rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 5,516,830 to Nachtman *et al.*. Nachtman *et al.* disclose a sprayable composition and a method of protecting material with the composition. More specifically, Nachtman *et al.* teach a sprayable composition comprising 0.06-0.59 % water soluble cellulosic polymer, and 23-95 % water, as well as other ingredients (c 5, claim 1). Further, Nachtman *et al.* teach the sprayable composition can further comprise a surfactant, borax, and an odor controlling agent (c 5, claims 2, 5, and 7). Nachtman *et al.* also teach that the composition also contains carrier solvents, such as alcohols (c 4, l 38-39). Therefore, the composition disclosed by Nachtman *et al.* teaches a composition which can comprise a water soluble polymer, borax, a surfactant, water, carrier solvents, and additives, thereby anticipating the limitations of applicant's product claim.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nachtman *et al.*. Nachtman *et al.* is discussed above as teaching a composition which reads on applicant's claimed product. Further, as also discussed above, Nachtman *et al.* teach the inclusion of an odor controlling agent, suggesting that one of ordinary skill in the art would use the composition to control odor, thereby suggesting applicant's method claims. Additionally, although it is not explicitly stated in the reference, it is the position of the examiner that applicant's claim 7, to a container comprising the composition, is also rendered obvious by Nachtman *et al.*. Nachtman *et al.* teach that their composition is sprayable, thereby suggesting that it be held in a container which will allow for spraying. One of ordinary skill in the art would have been motivated to use the composition disclosed by Nachtman *et al.* in order to control odor, specifically because they teach in column 1, line 47, that their composition can control odor. The source of the odor is irrelevant. The expected result would be a protective composition which controls odor. Therefore, this invention as a whole would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made.

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103 clms 1-6

US Patent 5,183,655 to Stanislawski *et al.*. Stanislawski *et al.* teach an odor controlling animal litter comprising particles and an odor controlling liquid dispersion to be carried onto the litter particles (c 1, line 63- c 2, line 2). In column 6, example 1, Stanislawski *et al.* teach that the odor controlling liquid dispersion comprises water, boric acid, as well as surfactants and other additives. Additionally, Stanislawski *et al.* teach that certain polymers can be added, which are super-absorbent polymers to help wick away odor (c 5, l 61-63). Specifically, in claims 1 and 2, Stanislawski *et al.* teach that the liquid composition for deodorizing animal waste by direct contact therewith comprises a borate based compound, water, solvent, and surfactant. It is the position of the examiner that the teachings of Stanislawski *et al.* suggest the limitations of applicant's claims. Although, the purpose of Stanislawski *et al.*'s invention is to coat litter particles, the liquid dispersion is claimed as a liquid composition for deodorizing animal waste. It is the position of the examiner that one of ordinary skill in the art would have been motivated to use Stanislawski *et al.*'s composition as a composition to control pet malodor's, based on the disclosure. The expected result would be a composition which controls pet odors, especially those associated with pet waste. Therefore, this invention as a whole would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy E Pulliam whose telephone number is (703) 308-4710. The examiner can normally be reached on M-F 8:30-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K Page can be reached on (703) 308-2927. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7922 for regular communications and (703) 308-7922 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1234.

Amy E. Pulliam  
Patent Examiner  
Art Unit 1615  
December 5, 2000

THURMAN K. PAGE  
SUPERVISOR, PATENT EXAMINER  
TECHNOLOGY CENTER 1600